

AMENDED IN SENATE APRIL 14, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 422

Introduced by Senator Monning
(Coauthor: Senator Beall)
(Coauthor: Assembly Member Mark Stone)

February 25, 2015

An act to amend Sections ~~35152 and 35153 of 35100, 35101, 35103, 35120, 35152, and 35153 of~~ *35100, 35101, 35103, 35120, 35152, and 35153 of*, and to amend the heading of Division 26 (*commencing with Section 35100*) of, the Public Resources Code, relating to the Santa Clara Valley Open-Space Authority.

LEGISLATIVE COUNSEL'S DIGEST

SB 422, as amended, Monning. Santa Clara Valley Open-Space Authority.

Existing law creates the Santa Clara County Open-Space Authority, and prescribes the jurisdiction and functions and duties of the authority. Existing law authorizes the authority, among other things, to acquire, hold, and dispose of real and personal property, within the authority's jurisdiction, necessary to the full exercise of its powers. Existing law further authorizes the authority to take by eminent domain any property necessary or convenient to accomplish the purposes of the authority, with the exception of lands in active ranching, lands in agricultural production, and lands in timberland production zones that are not threatened by imminent conversion to developed uses.

This bill would, in addition, authorize the authority to acquire, but not to take by eminent domain interests in real property that are ~~outside of~~ *without* the authority's jurisdiction, necessary to the full exercise of

its powers. *The bill would change the name of the authority to the Santa Clara Valley Open-Space Authority and make conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The heading of Division 26 (commencing with*
2 *Section 35100) of the Public Resources Code is amended to read:*

3
4 DIVISION 26. SANTA CLARA-COUNTY VALLEY
5 OPEN-SPACE AUTHORITY
6

7 *SEC. 2. Section 35100 of the Public Resources Code is*
8 *amended to read:*

9 35100. This division shall be known and may be cited as the
10 Santa Clara-County Valley Open-Space Authority Act.

11 *SEC. 3. Section 35101 of the Public Resources Code is*
12 *amended to read:*

13 35101. The Legislature hereby finds and declares all of the
14 following:

15 (a) In Santa Clara County, open-space preservation and creation
16 of a greenbelt are immediate high priorities needed to counter the
17 continuing and serious conversion of these lands to urban uses, to
18 preserve the quality of life in the county, and to encourage
19 agricultural activities.

20 (b) In order to deal in an expeditious manner with the current
21 serious loss of these properties, the county needs to develop and
22 implement a local funding program involving properties occupied
23 for urban purposes which give rise to the need for open-space
24 preservation that goes significantly beyond current existing funding
25 which that is not adequate to resolve these losses.

26 (c) It is in the public interest to create the Santa Clara-County
27 Valley Open-Space Authority so that local open-space preservation
28 and greenbelting decisions can be implemented in a timely manner
29 to provide for the acquisition and maintenance of these properties.

30 (d) All persons owning developed parcels enjoy the privilege
31 of using, and benefit from, the availability of open space.

32 *SEC. 4. Section 35103 of the Public Resources Code is*
33 *amended to read:*

35103. “Authority” means the Santa Clara-County Valley Open-Space Authority created pursuant to this division in the County of Santa Clara.

SEC. 5. Section 35120 of the Public Resources Code is amended to read:

35120. The Santa Clara-County Valley Open-Space Authority is hereby created on February 1, 1993. The maximum jurisdiction of the authority shall include all areas within the county, except those areas of the county presently within the boundaries, including the sphere of influence, of the midpeninsula Regional Open-Space District. Each city situated within the maximum jurisdictional boundaries shall pass a resolution stating its intent to be included within the authority’s jurisdiction by January 15, 1993. These resolutions shall be transmitted to the board of supervisors. ~~Any~~ A city ~~which~~ that fails to pass ~~that~~ the resolution or ~~which~~ that formally states its intent to not participate shall be excluded from the authority’s jurisdiction. The creation of the authority is not subject to review by the Santa Clara County Local Agency Formation Commission.

SECTION 1.

SEC. 6. Section 35152 of the Public Resources Code is amended to read:

35152. The authority may take by grant, appropriation, purchase, gift, devise, condemnation, or lease, and may hold, use, enjoy, and lease or dispose of real and personal property of every kind, and rights in real and personal property, within or ~~outside of~~ *without* the authority’s jurisdiction, necessary to the full exercise of its powers. The authority may accept and hold open-space easements and purchase development credits wherever the authority may acquire real property.

Priority for open-space acquisition should be focused on those lands closest, most accessible, and visible to the urban area. The remote ranchlands east of the westernmost ridgeline of the Diablo Range shall be acquired as permanent open space only through conservation easement purchases or the granting of lands or conservation easements by owners to the authority.

Lands subject to the grant of an open-space easement executed and accepted by the authority in accordance with this division are enforceably restricted within the meaning of Section 8 of Article XIII of the California Constitution. An easement or other interest

1 in real property may be dedicated for open-space purposes by the
2 adoption of a resolution by the governing board, and any interest
3 so dedicated may be conveyed only as provided in this section.

4 The authority may not validly convey any interest in any real
5 property actually dedicated and used for open-space purposes
6 without the consent of a majority of the voters of the authority
7 voting at a special election called by the governing board and held
8 for that purpose. Consent need not first be obtained for a lease of
9 any real property for a period not exceeding 25 years if that real
10 property remains in open-space or agricultural use for the entire
11 duration of the lease.

12 ~~SEC. 2.~~

13 *SEC. 7.* Section 35153 of the Public Resources Code is
14 amended to read:

15 35153. The authority may exercise the right of eminent domain
16 to take any property necessary or convenient to accomplish the
17 purposes of this division, except that it shall not take lands in active
18 ranching, lands in agricultural production, lands in timberland
19 production zones that are not threatened by imminent conversion
20 to developed uses, or lands ~~not within~~ *without* the authority's
21 jurisdiction. Furthermore, the authority shall not acquire any
22 interest in real property by eminent domain unless the real property
23 is contiguous to real property which is already owned by a public
24 agency for open-space use. For purposes of this section, "owned"
25 includes any lease or other contractual commitment to which the
26 public agency is a party, to maintain the property in open-space
27 use for a term of at least 25 years. The right of eminent domain
28 may only be exercised upon the approval of a four-fifths vote of
29 the governing board. If the property owner objects to the
30 acquisition of his or her property by eminent domain, the property
31 owner may, within 30 days of the governing board's vote, file a
32 written objection with the legislative body of the city or county in
33 which the property is located. If the property is located in more
34 than one city or in the county and one or more cities, the property
35 owner shall file his or her objection with the legislative body of
36 the city or county which includes the larger portion of the property.
37 If the property owner files a timely written objection, the legislative
38 body shall consider the objection at a public hearing to be held
39 within 45 days of its receipt. If the legislative body of a city
40 upholds by a two-thirds vote, or the legislative body of a county

1 upholds by a majority vote, the objection by determining that the
2 acquisition is not in the best interests of the public within the
3 authority's jurisdiction, the authority shall not exercise its right of
4 eminent domain on that property.

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